

## OFFICE OF THE COMMISSIONER

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Lisa Garcia  
Regional Administrator  
US Environmental Protection Agency, Region 2  
290 Broadway  
New York, NY 10007-1866

JUL 27 2022

Dear Administrator Garcia,

Thank you for your continued efforts to protect water quality in our region. I am writing to update you on the New York State Department of Environmental Conservation's (DEC) efforts to protect primary and secondary contact recreation, such as swimming and boating, in saline waters in and around New York City. Through amendments to water quality standards and classifications, DEC plans to propose new water quality criteria, as well as reclassify waters based on the Clean Water Act and guidance from the United States Environmental Protection Agency (EPA). This important regulatory update plan will ensure the utmost protection of water quality in the New York City region, and we look forward to working with you and EPA experts as this process advances.

As discussed on our prior conversations, DEC is launching a public engagement process through a series of rule makings over the next several years with a goal to ensure updated regulations and classifications for New York's saline waters based on how these waters are used by the public. This effort will begin with an Advanced Notice of Proposed Rule Making (ANPRM) followed by targeted rule makings to update language associated with best uses of specific water segments. It is anticipated that these rule makings will define new water quality criteria applicable to these water segments, and ultimately reclassify waters to meet Clean Water Act goals. These efforts will strive to not only provide the strongest protections possible for NYS's saline waters, but will facilitate existing agreements with the New York City Department of Environmental Protection with respect to implementing projects identified in Long Term Control Plans to abate Combined Sewer Overflows (CSOs).

The ANPRM is an imperative first step in this overall plan as it engages the public and various stakeholders in providing feedback, data, and information that will help DEC draft express terms of water quality standards and determine regulatory impacts of subsequent rule makings. The ANPRM is scheduled for release on July 27, 2022 in the NY State Register and the Environmental Notice Bulletin. The public input period for the ANPRM will run for 90 days, closing on October 25, 2022. An advanced copy of the ANPRM is included as an attachment to this letter. As part of DEC's efforts to engage the public, DEC is also hosting two public informational meetings during the comment period on August 31, 2022 and September 29, 2022. The intent of these meetings is to publicly review the ANPRM and the overall plan for amendments to saline water quality standards and reclassifications.



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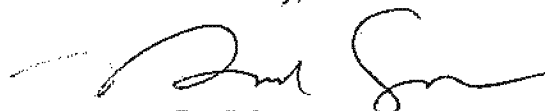
Following the close of the public input period for the ANPRM, DEC anticipates proposing several water quality criteria and water classification rule makings, incorporating the data and information gathered during the ANPRM's extensive public input period. Generally, the following schedule for these rule makings, and certain possible regulatory options that DEC is currently considering, are outlined below:

1. Water Quality Criteria and Best Usages – propose rules for public comment by January 2023
  - a. Primary Contact Recreation (PCR) Criteria - Revise 6 NYCRR § 703.4(d) to extend the coverage of Enterococcus criteria (35GM and 130STV), protective of PCR, to all Class SA, SB, and SC waters.
  - b. Secondary Contact Recreation Criteria (SCR) Criteria - Revise 6 NYCRR § 703.4(d) to add new Enterococcus criteria (100GM and 370STV), protective of SCR, to all Class I waters.
  - c. Subcategorization of Recreation Best Uses - Create a new section at 6 NYCRR § 701.27 to establish subcategories of the recreation best usages to allow for wet weather exemption of recreational water quality criteria under certain situations.
2. Reclassification and Re-segmentation – Propose rules for public comment by December 2024
  - a. Class SA, SB, and SC - Complete reclassification and/or re-segmentation of waters to SA, SB, or SC.
  - b. Class I - Revise 6 NYCRR Parts 890 and 935 to complete reclassification of certain waters to Class I from Class SD.
  - c. Class SB (wet weather subcategory) - Revise 6 NYCRR Parts 890 and 935 to reclassify certain waters to Class SB and add the wet weather exemption.
  - d. Class SD - Revise 6 NYCRR Parts 890, 891, and 935 to reclassify waters from I to SD based on UAAs where appropriate.

Precise dates of rule making issuance will be established once the breadth of public input and nature of public comments are known through the processes outlined above. We have included scheduling of proposed rule makings above as this is more predictable due to direct development by DEC, and we will continue to keep you and your staff apprised as this regulatory progress is realized.

Thank you for your attention to this comprehensive approach and we look forward to continuing to work with you and your staff on these important water quality protection issues. If you should have any questions or need further information on our approach, please feel free to contact me.

Sincerely,



Basil Seggos  
Commissioner